

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

SHERNARD WALLACE,

Plaintiff,

v.

WILLIAM SMITH; and C. BROWN,

Defendants.

No. 17-2269

ORDER

On April 19, 2017, Plaintiff Shernard Wallace, an inmate at the Shelby County Criminal Justice Complex in Memphis, Tennessee, filed a pro se Complaint under 42 U.S.C. § 1983. (ECF No. 1.) He filed an Amended Complaint on August 10, 2017. (ECF No. 7)

Wallace alleges that on May 4, 2016, Defendant William Smith, a Memphis Police officer, chased Wallace and caused Wallace to fall approximately twenty to twenty-five feet. (ECF No. 7-1 at 22.) Wallace alleges that during the chase Defendant C. Brown, another Memphis Police officer, struck Wallace in the face several times and put him in a choke-hold while Smith punched Wallace in the side and back. (Id.) Wallace alleges that, when he was placed in handcuffs, Smith and Brown continued to beat him. (Id.)

Wallace asserts a right to relief under 42 U.S.C. § 1983. He seeks damages and an injunction to ensure his constitutional rights

are protected. (See id.) Before the Court are two motions: (1) Wallace's October 17, 2018 Motion for Judgment on the Pleadings (ECF No. 31); and (2) Wallace's January 16, 2019 Motion for a Preliminary Injunction enjoining his state court criminal trial (ECF No. 35).

On October 30, 2018, the Court received a letter from Wallace asking it to "set [his Motion for Judgment on the Pleadings] to the side, and not rule on it," because the motion was filed prematurely. (ECF No. 34 at 219.) Wallace's letter, construed as a motion to withdraw his Motion for Judgment on the Pleadings, is GRANTED. Wallace's Motion for Judgment on the Pleadings is DENIED AS MOOT.

On May 4, 2015, Wallace was charged with possession of cocaine with intent to manufacture, and on May 5, 2016, he was charged with a second count of possession of cocaine with intent to manufacture and with resisting official detention. (See <https://cjs.shelbycountyttn.gov> Case number 1600343). A trial on those charges was set for May 7, 2019, in the Tennessee Criminal Court for the Thirtieth Judicial District at Memphis. (Id.) On that date, Wallace pled guilty to possession of a controlled substance and the charges of possessing cocaine with intent to manufacture and resisting official detention were dismissed nolle prosequi. (Id.) Wallace's guilty plea and the dismissal preclude

a trial on the charges against him. Wallace's motion to enjoin his trial is DENIED AS MOOT.

For the foregoing reasons, Wallace's motion to withdraw his Motion for Judgment on the Pleadings is GRANTED, his Motion for Judgment on the Pleadings is DENIED AS MOOT, and his Motion for a Preliminary Injunction is DENIED AS MOOT.

So ordered this 17th day of July, 2019.

/s/ Samuel H. Mays, Jr.
Samuel H. Mays, Jr.
UNITED STATES DISTRICT JUDGE